

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SLOAN BIOTECHNOLOGY)	CASE NO. 1:16 CV 03104
LABORATORIES, LLC,)	
)	
Plaintiff/Counterclaim-Defendant,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
ADVANCED BIOMEDICAL)	<u>MEMORANDUM OPINION</u>
INCORPORATED,)	<u>AND ORDER</u>
)	
Defendants/Counterclaim-Plaintiff)	

This matter is before the Court on the Defendant/Counterclaim-Plaintiff's Motion to Remand this action to the Court of Common Pleas for Cuyahoga County. (ECF #4).

Plaintiff/Counterclaim-Defendant Sloan Biotechnology Laboratories, LLC, removed this action to this Court pursuant to 28 U.S.C. § 1441(a), claiming that Sloan is in fact the defendant in the Ohio case. There was no realignment order filed in this case; at all times from the initial filing in Illinois state court on June 17, 2016, to the Notice of Removal filed in this Court on December 30, 2016, Sloan has been identified as Plaintiff.

Courts strictly construe the removal statutes and all doubts are to be resolved in favor of remand. Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108-109, 61 S. Ct. 868, 872, 85 L.Ed. 1214 (1941), Keller v. Honeywell Protective Services, 742 F. Supp. 425, 426 (N. D. Ohio 1990). 28 U.S.C. § 1441(a) unambiguously authorizes removal "by the defendant or the defendants" and does not authorize removal by plaintiffs. As such, removal in this case was

improper. However, because Plaintiff/Counterclaim-Defendant's Notice of Removal was not wholly without support, the Parties shall bear their own costs.

For the reasons stated above, the Defendant/Counterclaim-Plaintiff's Motion for Remand (ECF #4) is GRANTED. The Defendant/Counterclaim Plaintiff's Motion for an Award of Its Fees and Costs (ECF #4) is DENIED. This action will be REMANDED to the Court of Common Pleas for Cuyahoga County, Ohio.

IT IS SO ORDERED.


DONALD C. NUGENT
United States District Judge

DATED: February 6, 2017